IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 17866 of 2004

Between:

M/s Jagadamba Mills, Medar Basthi, Kothagudem, Khammam District rep.by its Prop.Durga Shanker Sarda, S/o Late Bhikoolal Sarda, aged about 54 years, R/o Kothagudem

..... PETITIONER

AND

1 The Commercial Tax Officer, Kothagudem, Khammam District
2 The Addl.Commissioner (CT) (Legal) O/o The Commissioner of

Commercial Taxes, Andhra Pradesh, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, more particularly one in the nature of Writ of Mandamus or any other appropriate Writ order or direction under Article 226 of the Constitution of India, declaring the impugned order passed by the 2nd respondent in proceedings No.CCT's Rex.No.LV(4)/1651/2004, dated 12-07-2004 as illegal, arbitrary and consequently grant stay of collection of disputed sales tax of Rs.2,04,314/- for the assessment year 2000-01, under the Act, pursuant to the revision order passed by the Deputy Commissioner (CT) Warangal till the disposal of appeal before the Sales Tax Appellate Tribunal of A.P.

Counsel for the Petitioner:MR.TEJPRAKASH TOSHNIWAL

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following :

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned Counsel for the parties. With their consent, the Writ Petition is disposed of at this stage.

The controversy is that pending appeal, application for stay was dismissed by the competent authority. We have gone through the record and heard learned Counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed tax, while calculating the 50 per cent amount, the amount paid by the petitioner shall be given credit to.

The Writ Petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

5th October, 2004.

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(S.ANANDA REDDY, J)

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To

1 The Commercial Tax Officer, Kothagudem, Khammam District
2 The Addl.Commissioner (CT) (Legal) O/o The Commissioner of

Commercial Taxes, Andhra Pradesh, Hyderabad

3 Two C.Cs to the Government Pleader for Commercial Taxes,

High Court of A.P., Hyderabad (OUT)

4 Two C.D copies.